REMARKS

Claims 1-18 and 21-25 were pending in this application and are subject to a Restriction Requirement under 35 U.S.C. § 121 and 372. Claims 19-20 were previously canceled in a preliminary amendment dated February 13, 2006. It is respectfully submitted that no new matter has been added by virtue of these amendments.

II. Restriction Requirement

In the Office Action, the Examiner asserted that the present application contains claims which are directed to the following six distinct inventions and stated that restriction to one of the six inventions is required:

Group I:	Claims 1 to 4 and 8 to 11, drawn to a chemical compound and a pharmaceutical composition using the compound of formula (I);
Group II:	Claims 5 to 7, drawn to a composition comprising a physical mixture of: (a) at least one substance selected from the group consisting of pyridoxal, pyridoxamine and pyridoxine, their pharmaceutically acceptable functional derivatives and salts thereof; and (b) at least one anti-epileptic drug, anticonvulsive drug, neuroprotective drug or nootrope compound wherein the compound is not defined in Group I;
Group III:	Claims 12 and 15, drawn to a method of treatment of a neurological disease or disorder using the chemical compound of Group I;
Group IV:	Claims 13 to 14 and 21 to 24, drawn to a method of treatment of a neurological disease or disorder using a composition of Group II;
Group V:	Claims 16 and 18, drawn to a method of preventing epileptic episodes, alleviating epileptic episodes and/or reducing side effects of anti-epileptic drugs comprising using the chemical compound of Group I; or
Group VI:	Claim 17, drawn to a method of preventing epileptic episodes, alleviating epileptic episodes and/or reducing side effects of anti-epileptic drugs comprising using the composition of Group II.

Applicants assert that the inventions identified as Groups I, III and V should be considered as one invention. As the claimed compounds of formula (I) and pharmaceutical compositions comprising formula (I) are novel, it is apparent that claims covering their use also would be novel. Therefore, it would be appropriate for the compounds of formula (I) and pharmaceutical compositions comprising formula (I) in the same application. It is therefore also appropriate to allow claims covering their uses to also be in the same application.

The Examiner alleges that the inventions of Groups I, III and V are distinct because the product as identified in Group I is "useful in a materially different process of using that product" e.g. in Group III for the treatment of a neurological disease or disorder; or e.g. as identified in Group V, for the prevention of epileptic episodes, alleviation of epileptic episodes and/or reducing side effects of anti-epileptic drugs; etc. The Examiner concludes that the Restriction is proper because the inventions are "distinct" and there would be a serious search and examination burden if restriction were not required.

However, Section 803 of the Manual of Patent Examination Procedure (MPEP) states that "[i]f the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions." (emphasis supplied).

Applicants respectfully submit that a search and examination relating to the Group I product claims would not present serious burden with regard to search and examination of the Group III and Group V methods of use claims. The Group III and Group V method claims are directed to the use of the products expressly recited in the Group I claims. Therefore, any search relating to the products would readily identify all uses of the product, including the claimed uses such as treatment of a neurological disease or disorder; prevention of epileptic episodes; alleviation of epileptic episodes and/or reducing side effects of anti-epileptic drugs, etc.

Applicants believe that, because the compounds and compositions of claims 1 to 4 and 8 to 11 are novel, it is appropriate to examine the claims to the use of those compounds and compositions as well, particularly because the search and examination for Groups I, III and Group V claims together would not present a serious burden. Reconsideration is respectfully requested.

In order to be responsive to the Examiner's demand to elect a single invention to be examined, Applicants hereby provisionally elect with traverse Group I as identified by the Examiner for further prosecution, namely claims 1 to 4 and 8 to 11 drawn to chemical compound and a pharmaceutical composition using the compound of formula (I).

Applicants also assert that currently pending claims 10 and 11 should be considered in Group II since both claims 10 and 11 relate to compositions having components (a) and (b) as defined in claim 5 (Applicants note that the Examiner has identified claim 5 is being in Group II).

Claims 5, 7, 13, 14, 17, and 21 to 24 were related to the invention of Groups II, IV and VI, and, therefore, were canceled as reading on the non-elected invention.

In view of the traversal above, method claims 12, 15, 16 and 18 have been withdrawn, however, Applicants preserve the right for rejoinder of non-elected method claims 12, 15, 16 and 18 as set forth in MPEP § 821.04(b) Rejoinder of Process Requiring an Allowable Product.

It is respectfully submitted that pending claims 1 to 4, 8 and 9, encompass and are readable on the elected invention.

Conclusion

Applicants believe this Reply to the Restriction Requirement is fully compliant with the United States Patent laws and promulgated Rules. In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the restriction requirements.

This Response is being submitted in response to the Office Action dated March 20, 2009 in the above-identified application. Concurrently with this Response, Applicant submits a petition for a one-month extension of time for filing a response, along with the requisite fee. Therefore the time for filing a response to the March 20, 2009 Office Action is thereby extended to May 20, 2009, and this Response is being timely filed. If it is determined that any additional fee is due in connection with this filing, the Commissioner is authorized to charge said fees to Deposit Account No. 50-0552.

An early and favorable action on the merits is earnestly requested.

Respectfully submitted,
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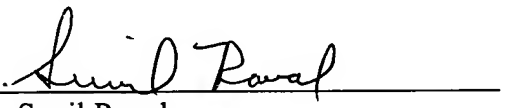
By: 
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